

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LINDY SHANKIN, et al.,

Plaintiff,

Hon. Janet T. Neff

v.

Case No. 1:13-cv-00188

RPS COMPANIES INC. and WILLIAM
THOMAS FICKA, III,

Defendants.

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REPORT AND RECOMMENDATION

This matter is before the Court on Plaintiff's Motions for Default Judgment (Dkt. 22 and Dkt. 26), which were referred to the undersigned by the Honorable Janet T. Neff for report and recommendation under 28 U.S.C. § 636(b)(1)(B).

Defendant RPS Companies Inc. failed to answer or otherwise plead as ordered by the Honorable Janet T. Neff on April 22, 2013 (Dkt. 6), and default was entered as to that defendant on June 11, 2013 (Dkt.11). Defendant William Thomas Ficka, III filed his answer to plaintiff's complaint on May 29, 2013 (Dkt. 9). However, defendant Ficka has declined to participate in the case since that date, and on August 9, 2013 he was ordered to show cause by August 23, 2013 why default and default judgment should not enter against him (Dkt. 17). He did not, and default was entered as to defendant William Thomas Ficka, III on September 5, 2013 (Dkt. 18).

Plaintiff moved for default judgment as to both defendants (Dkt. 22) and that motion was heard on December 19, 2013. Plaintiff, through counsel, appeared for the hearing on the motion

for default judgment. Defendant RPS Companies Inc. did not appear through counsel and William Thomas Ficka, III did not appear for the hearing or contact the court in any way. At the hearing, the undersigned determined that plaintiff was entitled to the requested relief, i.e., statutory damages in the amount of \$8650.00, costs of the action, and a reasonable attorney fee.

In her updated motion (Dkt. 26), plaintiff waived the reasonable attorney fee to which she would otherwise be entitled under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k(a)(3). The undersigned (1) is satisfied that plaintiff has complied with Fed. R. Civ. P. 55(b); (2) has held a hearing pursuant to Fed. R. Civ. P. 55(b)(2) regarding damages; and (3) recommends that judgment be entered in favor of plaintiff and against defendants jointly and severally in a form substantially similar to the proposed Default Judgment attached to plaintiff's updated motion (Dkt. 26). The proposed document would enter default judgment against defendants jointly and severally in the amount of \$8650.00, plus costs of the action in the amount of \$350.00, for a judgment in the total amount of \$9000.00.

Respectfully submitted,

Date: February 13, 2014

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within 14 days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).